



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Hubert Köster et al. Art Unit : 1624
Serial No. : 09/067,337 Examiner : Paul V. Ward
Filed : April 27, 1998
Title : SOLUTION PHASE BIOPOLYMER SYNTHESIS

Mail Stop: Petitions / OPLA
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL LETTER

Dear Sir:

Transmitted herewith is a *Petition for Patent Term Adjustment Pursuant to 37 CFR 1.705(b)* in Response to the Notice of Allowance, mailed February 8, 2006, a check (\$200.00) for the requisite fee under 1.18(e), and a return postcard in connection with the above-captioned patent application.



The Commissioner is hereby authorized to charge the fee for the extension of time and any other fee that may be due in connection with this and the attached papers or with this application during its entire pendency to Deposit Account No. 06-1050. A duplicate of this sheet is enclosed.

Respectfully submitted,

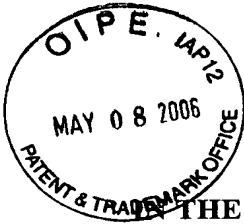
Stephanie Seidman
Reg. No. 33,779

Address all correspondence to:
Stephanie L. Seidman
Fish & Richardson P.C.
12390 El Camino Real
San Diego, California 92130
Telephone: (858) 678-5070
Facsimile: (202) 626-7796
email: seidman@fr.com

CERTIFICATE OF MAILING BY "EXPRESS MAIL"
"Express Mail" Mailing Label Number EV 471535 203 US
Date of Deposit: May 8, 2006
I hereby certify that this paper is being deposited with the United States Postal "Express Mail Post Office to Addressee" Service under 37 CFR §1.10 on the date indicated above and is addressed to: Commissioner for Patents, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

Judy Sherman

Best Available Copy



MAY 10 2006

Attorney's Docket No.: 17111-002001 / 2301

DAE MW

THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Hubert Köster et al. Art Unit : 1623
Serial No. : 09/067,337 Examiner : Paul V. Ward
Filed : April 27, 1998
Title : SOLUTION PHASE BIOPOLYMER SYNTHESIS

MAIL STOP: PETITIONS / OPLA

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR §1.705(b)

Applicant hereby petitions for reconsideration of the Patent Term Adjustment (PTA) accorded the above-referenced patent at time of allowance. The *Notice of Allowance* and *Determination of Patent Term Adjustment* under 35 U.S.C. 154(b), mailed February 8, 2006, states that the Total Patent Term Adjustment at Allowance is "0" days. Reconsideration of the PTA to reasonably increase USPTO Delay from 412 days to 623 days, decrease APPL Delay from 547 days to 91 days, and increase Total PTA from "0" days to 532 days, is respectfully requested.

The Issue Fee Transmittal along with fee payment for the above-referenced application is also being filed this date under separate cover to Mail Stop Issue Fee.

05/11/2006 HDEMESS2 00000001 09067337

01 FC:1455

200.00 OP

CERTIFICATE OF MAILING BY "EXPRESS MAIL"

"Express Mail" Mailing Label Number EV 471535203

Date of Deposit: May 8, 2006

I hereby certify that this paper is being deposited with the United States Postal "Express Mail Post Office to Addressee" Service under 37 CFR §1.10 on the date indicated above and is addressed to: Commissioner for Patents, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

Judy Sherman
Judy Sherman

The Patent Term Adjustment History in the PAIR system reflects that the U.S. Patent and Trademark Office (PTO) calculated the PTA as follows:

(1) PTO mailing of an *Office Action/Restriction Requirement* in response to *Election Response* filed August 8, 2001, due on the four-month date of December 8, 2001, and actually mailed on January 16, 2002. **Applicant is in agreement with the PTO Delay of 39 days;**

(2) PTO mailing of an *Office Action/Non-Final Rejection* in response to *Election/Response* filed March 1, 2002, due on the four-month date of July 1, 2002, and actually mailed on July 16, 2002. **Applicant is in agreement with the PTO Delay of 15 days;**

(3) APPL *Response after Non-Final Action* which included an *Information Disclosure Statement*, due at a three-month date of July 21, 2003 and timely received by the PTO on July 17, 2003. The *Information Disclosure Statement* was incorrectly entered as being received on July 17, **2004**, according an APPL Delay of 366 days. **Applicant is not in agreement with the calculated APPL Delay of 366 days and contend there should be no APPL delay days as made evident in the comments below;**

(4) PTO mailing of a *Office Action (Restriction Requirement)*, due at a four-month date of November 17, 2003, and actually mailed on November 9, 2004; Applicant acknowledges the accuracy of the accorded PTO Delay of 358 days given the respective dates entered in the file history, however, the *Restriction Requirement* was mailed in error by the new Examiner recently assigned to the application in an attempt to exam and prosecute the application with incomplete (lost or missing) papers. **As the File History entries do not indicate the actual events that transpired, Applicant contends the omissions created a further PTO Delay of 211 days for a total of 569 days for the Office's failure to respond with a proper office action within four months of Applicant's Response timely received July 17, 2003;**

(5) APPL *Response to Election / Restriction Filed*, which would appear to have a three-month due date of February 9, 2005, and actually received by the PTO on May 10, 2005 according to the present File History; however, this is not an accurate accounting of the prosecution events. **Applicant is not in agreement with the APPL Delay of 90 days, and contend there should be no APPL delay days as made evident in comments below; and**

(6) *APPL Response and Request for Continued Examination (RCE)*, due on a three-month date of September 9, 2005, and actually received by the PTO on December 6, 2005. **Applicant is in agreement with the APPL Delay of 91 days.**

REMARKS

For consideration of this *Petition* and as a courtesy to the Office, the Applicant has respectfully attached a copy of the *Petition for Patent Term Adjustment Pursuant to 37 CFR 1.705(b)* and the *PTA Petition Decision* for the continuation application US Serial No. 09/484,484 (of the instant application) which was also a problematic application and experienced similar tribulations during pre-allowance prosecution due to incomplete files, as these cases remained traditional paper files for some time, and prosecution by at least three different examiners.

As stated in comment (3) above, a *Response and Information Disclosure Statement* were received by the PTO on the same day, July 17, 2003, as evidenced by the attached copy of the Express Mail label, PTO date-stamped return post card, and the Transmittal Letter with a signed Certificate of Mailing. Applicant did not submit an Information Disclosure Statement on July 17, 2004. It appears the error was simply clerical in nature which resulted in a (leap) year or 366 days of APPL Delay. **Applicant respectfully requests the 366 days be removed and adjusted to 0 days.**

With reference to comment (4) above, and as experienced in the related application, the *Restriction Requirement* was issued erroneously. It was to be based on the original claims and not the pending claims, further evidencing that the PTO file was incomplete at that time after being inactive and set aside upon the departure of the second Examiner Josephine Young. Ms. Young was briefly assigned to the case towards the end of 2002. After Applicant's receipt of the *Restriction Requirement* and during telephonic exchanges with Examiner Ward, it was agreed that the Requirement was erroneously issued and would be withdrawn. A *Notice of Withdrawn Action*, however, was never properly entered or mailed. Again, as with the related application, there is no evidence of this document in the PTO files/IFW. Diligent and a more than reasonable amount of telephone inquiries, discussions, and electronic correspondence with Examiner Ward and his Supervisor, James Wilson, ensued for months requesting a written withdrawal and new action, eventually concluding

with two documented telephonic *Examiner Interview Summaries* with Examiner Ward which were mailed May 19, 2005. One *Interview Summary* was with Ms. Judy Sherman for a telephone interview on May 6, 2005 stating the *Office Action (Restriction)* dated November 9, 2004 would be vacated and no Applicant response was required as there was nothing outstanding; and the second *Interview Summary*, with the undersigned, Dr. Stephanie Seidman, was for a telephone interview on May 10, 2005 and requested a change in a term in the claims to which Applicant agreed and immediately faxed such agreement and amendment directly to Examiner Ward for consideration that date. A copy of each Interview summary is attached for your convenience.

As demonstrated, the November 9, 2004 *Office Action/Restriction* was vacated and no response was outstanding, therefore, the May 10, 2005 entry for a *Response to Election /Restriction Filed* and the APPL Delay of 90 days is an error as referenced in comment (5) above. **Applicant respectfully requests that the 90 days be removed and adjusted to 0 days.**

In conclusion for this series of events, the valid and true PTO action following the Applicant's July 17, 2003 *Response* was a *Final Rejection* mailed June 6, 2005. The Office failed to respond within four months and as such this correct response from the PTO constitutes the actual PTO delay of prosecution by 569 days. **Applicant respectfully requests the additional adjustment of 211 PTO Delay Days to the existing 358 PTO Delay Days accorded November 9, 2004, for a total of 569 PTO Delay Days for the mailing of a proper Office Action/Response.**

In summation and in consideration of the foregoing clarification regarding errors and omission as they relate to the July 17, 2003 *Response* and subsequent PTO lengthy delay in responding, Applicant respectfully submits and requests that the current determination of the Patent Term Adjustment at Allowance be re-calculated as follows:

- PTO Delay adjustment from 412 days to 623 days
- APPL Delay adjusted from 547 to 91 days
- Total PTA be adjusted from "0" days to 532 days

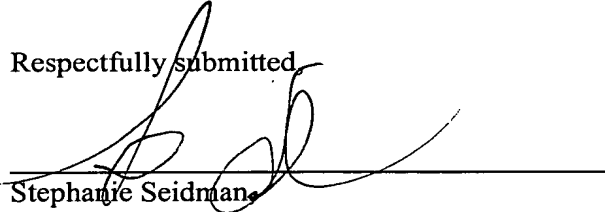
Copies of the following documents are provided in order of reference:

- (1) *Petition for Patent Term Adjustment Pursuant to 37 CFR 1.705(b)*, and *PTA Petition Decision* for related application 09/484,484, reconsidered by Mr. Fries;
- (2) *Transmittal Letter* listing the *Information Disclosure Statement*, page 1 of *Amendment and Response* of July 17, 2003, Express Mail label, and date-stamped postcard.
- (3) *Interview Summary* with Ms. Sherman, May 6, 2005, and *Interview Summary* with Dr. Seidman, May 10, 2005; both mailed May 19, 2005.

Enclosed is a check for \$200.00 in payment of the petition fee required by 1.18(e).
Please apply any other charges or credits to Deposit Account No. 06-1050.

Thank you for your consideration of this Petition. If there should be any questions or additional information required, please call the undersigned.

Respectfully submitted,



Stephanie Seidman
Reg. No. 33,779

Docket: 17111-002001 / 2301
Customer No. 20985
Fish & Richardson P.C.
12390 El Camino Real
San Diego, California 92130
Telephone: (858) 678-5070
Facsimile: (202) 626-7796
email: seidman@fr.com



UNITED STATES PATENT AND TRADEMARK OFFICE

017111-002002

RECEIVED

OCT 06 2005

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

2301B

FISH & RICHARDSON, PC
12390 EL CAMINO REAL
SAN DIEGO, CA 92130-2081

FISH & RICHARDSON, PC.
SAN DIEGO

COPY MAILED

OCT 04 2005

In re Application of
Köster, et al.
Application No. 09/484,484
Filed: January 18, 2000
Atty. Dkt. No.: 24743-2300

: OFFICE OF PETITIONS
: DECISION ON APPLICATION FOR
: PATENT TERM ADJUSTMENT
:
:

This is a decision on the "RETITION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR \$1.705(b)" filed September 2, 2005.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is hereby **GRANTED TO THE EXTENT INDICATED HEREIN.**

The Office will adjust the PAIR screen to reflect that the Patent Term Adjustment (PTA) determination at the time of mailing of the Notice of Allowance and Issue Fee Due reflects an adjustment of 449 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

Applicants request that the Determination of Patent Term Adjustment be corrected from zero days as indicated on the Determination of Patent Term Adjustment mailed June 3, 2005 to an adjustment of 450 days.

A review of the application history reveals under 37 CFR 1.702(a)(1), an adjustment of 18 days can be attributed to the Office for failure to mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed. The adjustment began March 19, 2001, the day after the date that is 14 months after the date that the application was filed, and ended July 16, 2002, the date the non-final Office action was mailed. See, 37 CFR 1.703(a)(1).

A further adjustment of 570 days under 37 CFR 1.702(a)(2) can be attributed to the Office for failure to respond within four months to applicants' response submitted July 11, 2003. The adjustment began November 12, 2003, the day after the date that is four months after the date that applicants' response to the

Reviewed By Practice Systems Initials: <u>man</u>
Reviewed By Billing Secretary Initials: _____

non-final Office action was filed, and ended June 3, 2005 the date that the Notice of Allowance was mailed.

The adjustment totaling 588 days can be reduced 92 days for applicants' failure to engage in reasonable efforts to conclude prosecution under 37 CFR 1.704(b). The reduction began November 29, 2001, the day after the date that is three months after the date that the Office communication was mailed, and ended February 28, 2002, the date applicants' submitted a response.

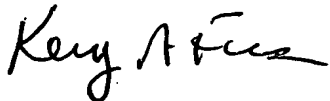
The adjustment totaling 588 days is further reduced 47 days in connection with the supplemental response submitted April 16, 2002. See, 37 CFR 1.704(c)(8). The reduction began March 1, 2002, the day after the date that the initial response was filed, and ended April 16, 2002, the date the supplemental response was filed.

Accordingly, at the time of allowance, the application was entitled to an adjustment of 588 days for Office delays. The adjustment of 588 days is properly reduced 139 days for applicants' failure to engage in reasonable efforts to conclude prosecution, resulting in an overall adjustment at the time of allowance of 449 days.

Receipt of the required application fee of \$200.00 is hereby acknowledged.

The application file is being forwarded to the Publications Division for issuance of a patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310.



Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Adjustment PAIR Calculation

Day : Monday
Date: 10/3/2005**PALM INTRANET**

Time: 13:42:39

PTA Calculations for Application: 09/484484

Application Filing Date:	01/18/2000	PTO Delay (PTO):	18
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	139
Post-Issue Petitions:	0	Total PTA (days):	449
PTO Delay Adjustment:	570		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
66	10/03/2005	ADJUSTMENT OF PTA CALCULATION BY PTO	570		
57	06/03/2005	MAIL NOTICE OF ALLOWANCE			
56	06/01/2005	ISSUE REVISION COMPLETED			
55	06/01/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
54	06/01/2005	CASE DOCKETED TO EXAMINER IN GAU			
53	06/01/2005	NOTICE OF ALLOWABILITY			
52	05/19/2005	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
51	05/16/2005	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
50	11/17/2004	MAIL NOTICE OF WITHDRAWN ACTION			
49	11/17/2004	MAIL RESTRICTION REQUIREMENT			
48	11/15/2004	REQUIREMENT FOR RESTRICTION / ELECTION			
47	11/15/2004	LETTER WITHDRAWING / VACATING OFFICE ACTION			
46	11/08/2004	CASE DOCKETED TO EXAMINER IN GAU			
45	06/24/2004	CORRESPONDENCE ADDRESS CHANGE			
44	07/11/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
43	07/11/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
42	04/23/2003	MAIL NON-FINAL REJECTION			
41	04/21/2003	NON-FINAL REJECTION			
40	04/09/2003	DATE FORWARDED TO EXAMINER			
39	03/28/2003	RESPONSE TO ELECTION / RESTRICTION FILED			
38	03/28/2003	REQUEST FOR EXTENSION OF TIME - GRANTED			

37	12/31/2002	MAIL RESTRICTION REQUIREMENT			
36	12/30/2002	REQUIREMENT FOR RESTRICTION / ELECTION			
35	12/13/2002	CASE DOCKETED TO EXAMINER IN GAU			
34	10/28/2002	DATE FORWARDED TO EXAMINER			
33	10/16/2002	RESPONSE AFTER NON-FINAL ACTION			
32	09/18/2002	CASE DOCKETED TO EXAMINER IN GAU			
31	07/16/2002	MAIL NON-FINAL REJECTION	18		26
30	07/15/2002	NON-FINAL REJECTION			
29	05/02/2002	DATE FORWARDED TO EXAMINER			
28	04/16/2002	SUPPLEMENTAL RESPONSE		47	26
27	04/10/2002	DATE FORWARDED TO EXAMINER			
26	02/28/2002	RESPONSE AFTER EX PARTE QUAYLE ACTION		92	23
25	02/28/2002	REQUEST FOR EXTENSION OF TIME - GRANTED			
24	12/07/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23	08/28/2001	MAIL EX PARTE QUAYLE ACTION (PTOL - 326)			
22	08/27/2001	EX PARTE QUAYLE ACTION			
21	08/16/2001	CORRESPONDENCE ADDRESS CHANGE			
20	08/16/2001	CORRESPONDENCE ADDRESS CHANGE			
19	06/25/2001	DATE FORWARDED TO EXAMINER			
18	06/15/2001	SUPPLEMENTAL RESPONSE			
17	06/25/2001	DATE FORWARDED TO EXAMINER			
16	06/15/2001	CONTINUING PROSECUTION APPLICATION - CONTINUATION (ACPA)			
15	06/15/2001	MAIL EXPRESS ABANDONMENT (DURING EXAMINATION)			
14	06/15/2001	EXPRESS ABANDONMENT (DURING EXAMINATION)			
13	06/15/2001	WORKFLOW - REQUEST FOR CPA - FINISH			
12	06/15/2001	WORKFLOW - REQUEST FOR CPA - BEGIN			

Search Another: Application#

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back use Back button on your browser toolbar.

Back to [PALM](#) | [ASSIGNMENT](#) | [OASIS](#) | [Home page](#)



Customer Copy
Label 11-F June 2002



Post Office To Addressee

UNITED STATES POSTAL SERVICE®

DELIVERY (POSTAL USE ONLY)

Delivery Attempt	Time	Employee Signature
Mo. Day	<input type="checkbox"/> AM <input type="checkbox"/> PM	
Delivery Attempt	Time	Employee Signature
Mo. Day	<input type="checkbox"/> AM <input type="checkbox"/> PM	
Delivery Date	Time	Employee Signature
Mo. Day	<input type="checkbox"/> AM <input type="checkbox"/> PM	

NO DELIVERY ☐ Waiver of Signature: If the addressee is not available, the carrier may leave the mail without obtaining signature of addressee or authorized agent. If the addressee is not available, the carrier may leave the mail without obtaining signature of addressee or authorized agent. If the addressee is not available, the carrier may leave the mail without obtaining signature of addressee or authorized agent.

Federal Agency Acct. No. or
Postal Service Acct. No.

ORIGIN (POSTAL USE ONLY)

Postage Code	Day of Delivery	Flat Rate Envelope
982192	<input checked="" type="checkbox"/> Next <input type="checkbox"/> Second	
Date	<input type="checkbox"/> 12 Noon <input type="checkbox"/> 3 PM	Postage \$ 13.65
Mo. Day Year	<input type="checkbox"/> 2nd Day <input type="checkbox"/> 3rd Day	Return Receipt Fee
Time In	Military	
<input type="checkbox"/> AM <input type="checkbox"/> PM	Int'l Alpha Country Code	COD Fee Insurance Fee
Weight	Acceptance Clerk Initials	Total Postage & Fees \$ 13.65
No Del		
Week		
CUSTOMER USE ONLY		
METHOD OF PAYMENT		

CUSTOMER USE ONLY

METHOD OF PAYMENT

FROM: Express Mail Corporate Acct. No.

FROM: (PLEASE PRINT)

PHONE: ()

LAW

WHITE

4350 LA JOLLA VILLAGE DR

STE 700

SAN DIEGO

CA 92122-1246

V DIEGO

24743

743-2301

24743-2301

24743-2301

24743-2301

24743-2301

24743-2301

24743-2301

24743-2301

24743-2301

24743-2301

24743-2301

24743-2301

24743-2301

24743-2301

24743-2301

24743-2301

24743-2301

24743-2301

24743-2301

24743-2301

24743-2301

24743-2301

24743-2301

24743-2301

24743-2301

24743-2301

24743-2301

24743-2301

24743-2301

24743-2301

24743-2301

24743-2301

24743-2301

24743-2301

24743-2301

24743-2301

24743-2301

24743-2301

24743-2301

24743-2301

24743-2301

24743-2301

24743-2301

24743-2301

24743-2301

24743-2301

24743-2301

24743-2301

24743-2301

24743-2301

24743-2301

24743-2301

24743-2301

24743-2301

24743-2301

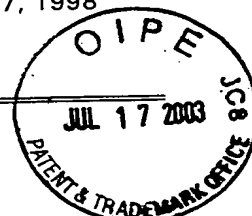
THE STAMP OF THE U.S. PATENT AND TRADEMARK OFFICE AFFIXED HERETO
WILL BE EVIDENCE OF RECEIPT OF THE FOLLOWING (MAILED ON 07/17/03 BY
EXPRESS MAIL, LABEL # EV 338076510 US):

CLIENT #: 24743-2301 SLS:DLR:MDB:lm
ENCLOSURES: TRANSMITTAL LETTER (in duplicate); RESPONSE TO THE OFFICE

THE STAMP OF THE U.S. PATENT AND TRADEMARK OFFICE AFFIXED HERETO
WILL BE EVIDENCE OF RECEIPT OF THE FOLLOWING (MAILED ON 07/17/03 BY
EXPRESS MAIL, LABEL # EV 338076510 US):

A
S
F
ENCLOSURES: TRANSMITTAL LETTER (in duplicate); RESPONSE TO THE OFFICE
ACTION MAILED 04/21/03; SUPPLEMENTAL INFORMATION
DISCLOSURE STATEMENT (2 pages); PTO-form 1449 (1 page);
CITED REFERENCES; CHECK IN THE AMOUNT OF \$180.00; and
RETURN POSTCARD.
APPLICANT: KÖSTER *et al.*
SERIAL NO: 09/067,337
FOR: SOLUTION PHASE BIOPOLYMER SYNTHESIS
FILING DATE: April 27, 1998

PLEASE STAMP HERE (THANK YOU):



COPY



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: KÖSTER *et al.*

Serial No.: 09/067,337

Confirmation No.: 9981

Filed: April 27, 1998

For: SOLUTION PHASE BIOPOLYMER
SYNTHESIS

Art Unit: 1623

Examiner: Young, Josephine

CERTIFICATE OF MAILING BY "EXPRESS MAIL"

"Express Mail" Mailing Label Number

EV 338076510 US

Date of Deposit July 17, 2003

I hereby certify that this paper is being deposited with the United States Postal "Express Mail Post Office to Addressee" Service under 37 C.F.R. §1.10 on the date indicated above and addressed to:

Commissioner for Patents
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

07/17/03

Date


Jonathan Ong

TRANSMITTAL LETTER

Commissioner for Patents
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Transmitted herewith are an amendment responsive to the Office Action mailed on April 21, 2003, a Supplemental Information Disclosure Statement, PTO-Form 1449 (1 page), a check for \$180.00 and cited references for filing in connection with the above-identified application.

- ☒ The Commissioner is hereby authorized to charge any fee, including any submitted herewith that may be due in connection with this and the attached papers, or with this application during its entire pendency to or to credit any overpayment to Deposit Account No. 50-1213. A duplicate of this sheet is enclosed.

Respectfully submitted,
HELLER, EHRMAN, WHITE & McAULIFFE LLP

By: 

Dale L. Rieger

Registration No. 43,045

Attorney Docket No. 24743-2301

Address all correspondence to:

Stephanie L. Seidman, Esq.

HELLER EHRMAN WHITE & McAULIFFE LLP

4350 La Jolla Village Drive, 7th Floor

San Diego, California 92122

Telephone: (858) 450-8400

Facsimile: (858) 587-5360

EMAIL: sseidman@hewm.com

COPY



UNITED STATES PATENT AND TRADEMARK OFFICE

1711-002001

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

MAY 08 2006

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/067,337	04/27/2005	HUBERT KOSTER	24743-2301	9981

20985 7590 05/19/2005

FISH & RICHARDSON, PC
12390 EL CAMINO REAL
SAN DIEGO, CA 92130-2081

RECEIVED

MAY 23 2005

FISH & RICHARDSON, P.C.
SAN DIEGO

EXAMINER

WARD, PAUL V

ART UNIT	PAPER NUMBER
----------	--------------

1623

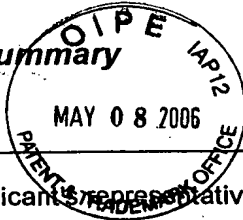
DATE MAILED: 05/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

COPY

Reviewed By Practice Systems
Initials: <i>[Signature]</i>
Reviewed By Billing Secretary
Initials: _____

Interview Summary



Application No.

09/067,337

Applicant(s)

KOSTER ET AL.

Examiner

PAUL V. WARD

Art Unit

1623

All participants (applicant, applicant's representative, PTO personnel):

(1) PAUL V. WARD.

(3) _____

(2) Judy Sherman.

(4) _____

Date of Interview: 06 May 2005.

Type: a) ☒ Telephonic b) ☐ Video Conference
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.
If Yes, brief description: _____

Claim(s) discussed: Claims 1-45.

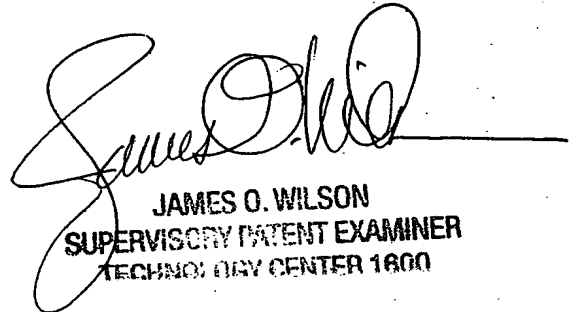
Identification of prior art discussed: _____

Agreement with respect to the claims f) ☒ was reached. g) ☐ was not reached. h) ☐ N/A.


Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Ms. Sherman and I agreed that: (1) the previous Office Action (Restriction) dated November 9, 2004 would be vacated and replaced with an Office Action responding to Applicant's July 17, 2003 Amendment; (2) a Response to the the November 9, 2004 Office Action (Restriction) was not necessary; and (3) the case would not go abandoned due to a non-response to November 9, 2004 Office Action (Restriction).

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

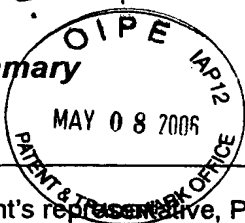
THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.


JAMES O. WILSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.


Examiner's signature, if required

Interview Summary



Application No.

09/067,337

Applicant(s)

KOSTER ET AL.

Examiner

PAUL V. WARD

Art Unit

1623

All participants (applicant, applicant's representative, PTO personnel):

(1) PAUL V. WARD.

(3) _____.

(2) Stephanie L. Seidman.

(4) _____.

Date of Interview: 10 May 2005.

Type: a) ☒ Telephonic b) ☐ Video Conference
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☐ No.

If Yes, brief description: _____.

Claim(s) discussed: 5, 33 and 45.

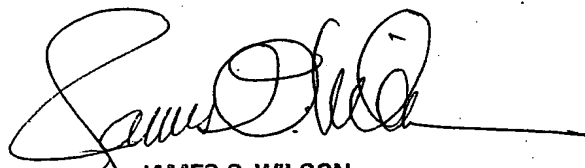
Identification of prior art discussed: _____.

Agreement with respect to the claims f) ☒ was reached. g) ☐ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Examiner explained to Applicant that the term "any reactive group" in the claims was indefinite, and that the claims would be allowed if Applicant would amend the claim to clarify the term "any reactive group" and thus, obviate the 112, 2nd paragraph rejection. Applicant agreed to amend the claim and fax it to me directly for consideration.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.


JAMES O. WILSON
SUPERVISOR, PATENT EXAMINER
TECHNOLOGY CENTER 1600


Examiner's signature, if required

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

**This Page is Inserted by IFW Indexing and Scanning
Operations and is not part of the Official Record**

BEST AVAILABLE IMAGES

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images include but are not limited to the items checked:

- ☐ **BLACK BORDERS**
- ☐ **IMAGE CUT OFF AT TOP, BOTTOM OR SIDES**
- ☐ **FADED TEXT OR DRAWING**
- ☐ **BLURRED OR ILLEGIBLE TEXT OR DRAWING**
- ☐ **SKEWED/SLANTED IMAGES**
- ☐ **COLOR OR BLACK AND WHITE PHOTOGRAPHS**
- ☐ **GRAY SCALE DOCUMENTS**
- ☐ **LINES OR MARKS ON ORIGINAL DOCUMENT**
- ☐ **REFERENCE(S) OR EXHIBIT(S) SUBMITTED ARE POOR QUALITY**
- ☐ **OTHER:** _____

IMAGES ARE BEST AVAILABLE COPY.

As rescanning these documents will not correct the image problems checked, please do not report these problems to the IFW Image Problem Mailbox.